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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,385	07/14/2005	Hans Moller Rasmussen	PATRADE	3356

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EXAMINER	
PARSLEY, DAVID J	
ART UNIT	PAPER NUMBER
3643	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/542,385	RASMUSSEN, HANS MOLLER	
	Examiner	Art Unit	
	David J. Parsley	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 July 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *14 July 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *10-20-05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Detailed Action

Preliminary Amendment

1. Entry of applicant's preliminary amendment dated 7-14-05 into the application file is acknowledged.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains more than 150 words.

Correction is required. See MPEP § 608.01(b).

4. The incorporation of essential material in the specification by reference to an unpublished U.S. application, foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference, if the material is relied upon to overcome any objection, rejection, or other requirement imposed by the Office. The amendment must be accompanied by a statement executed by the applicant, or a practitioner representing the applicant, stating that the material being inserted is the material previously incorporated by reference and that the amendment contains no new matter. 37 CFR 1.57(f).

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 7, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "but as little as possible" in line 6-7 of claim 6 render the claim indefinite

in that it is unclear to what the possible values for the weight are. Further, it is unclear to what the fillet is the last one of as seen in line 4 of claim 6. Further, it is unclear to what the desired minimum weight is referring to in line 7 of claim 6.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3, 7, 9-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,826,989 to Wattles et al. in view of U.S. Patent No. 4,065,911 to Fagan.

Referring to claims 1 and 9, Wattles et al. discloses a method/device of processing and packaging fillets, wherein the fillets are fed on to a conveyor belt – at 20,22,30, provided with a slicer – at 24, for cutting the fillets into fillet slices, and wherein at least a camera – at 40, and a calculation unit – at 42, are arranged near the conveyor belt for imaging and calculating characteristic parameters of the fillet slices – see figures 1,2a and column 4 lines 36-67 and column 5 lines 1-10, in that a weight determination of the fillet slices is performed – see column 4 lines 36-67 and column 5 lines 1-10, and on the basis of the weight determination the fillet slices are conveyed along the conveyor belt where they are moved to and transferred to a selected area opposite the conveyor belt – see at 32 in figure 2a, and being placed on a transport table – at 32, following which the selected slice on the transport table is weighed – at 38, and the

result is applied to the calculation unit – see figures 1 and 2a and column 12 lines 4-26. Wattles et al. does not disclose the slices are moved to and transferred to a selected package tray of a plurality of package trays and the package tray and slices are weighed. Fagan does disclose the slices are moved to and transferred to a selected package tray – see at 34,47 in figure 2a, and the package tray and slices are moved to a transport table – at 40, where both the tray and slices are weighed – see figures 1b, 2a and 2b and column 3 lines 5-65. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Wattles et al. and add the plurality of package trays of Fagan, so as to allow for the slices to be quickly conveyed in unison to subsequent processing stations.

Referring to claim 2, Wattles et al. as modified by Fagan further discloses that the transport packages are weighed each time a fillet slice is supplied to it – see figures 1b, 2a and 2b and column 3 lines 5-65. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Wattles et al. and add the plurality of package trays of Fagan, so as to allow for the slices to be quickly conveyed in unison to subsequent processing stations.

Referring to claim 3, Wattles et al. as modified by Fagan further discloses the weight determination of the fillet slices is determined as an estimate on the basis of the camera imaging of these – see figures 1,2a and column 4 lines 36-67 and column 5 lines 1-10 of Wattles et al.

Referring to claim 7, Wattles et al. as modified by Fagan further discloses the camera is additionally used for estimating other characteristic parameters such as area or shape – see column 3 lines 35-67 and column 4 lines 1-10 of Wattles et al.

Referring to claim 10, Wattles et al. as modified by Fagan further discloses that a weighing cell – at 44-52 of Fagan, is arranged below the slicer – at 12 – see figure 1a of Fagan.

Therefore it would have been obvious to one of ordinary skill in the art to take the device of Wattles et al. as modified by Fagan and add the weighing cell of Fagan, so as to allow for the size of the fillet to be accurately determined. The limitations of weighing the fillets before each cutting process are intended use/functional limitations in an apparatus claim and therefore these limitations have been considered but do not add any structural limitations to the apparatus claims.

Referring to claim 12, Wattles et al. as modified by Fagan further discloses the transport tables have horizontal surfaces – see at 32 in figures 1 and 2a of Wattles et al., and that they are disposed opposite the conveyor belt in positions where ejector means are arranged on the conveyor belt – see at 28,182 in figures 1 and 2a of Wattles et al.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wattles et al. as modified by Fagan as applied to claim 1 above, and further in view of U.S. Patent No. 6,320,141 to Lindee et al.

Referring to claim 4, Wattles et al. as modified by Fagan does not disclose the weight determination of the fillet slices is determined in that the entire fillet is weighted before it is cut in the slicer, and that the remaining part of the fillet is weighted after a fillet slice has been cut, following which the weight of the fillet slice is determined as a difference of the weighings of the fillet before it is cut and after it has been cut. Lindee et al. does disclose the weight determination of the fillet slices is determined in that the entire fillet is weighted before it is cut in the slicer, and that the remaining part of the fillet is weighted after a fillet slice has been cut, following which the weight of the fillet slice is determined as a difference of the weighings of the fillet before it is cut and after it has been cut – see figure 1 and the abstract. Therefore it

would have been obvious to one of ordinary skill in the art to take the device of Wattles et al. as modified by Fagan and add the weighing of the slice before and after slicing of Lindee et al., so as to allow for the weight of the slice to be accurately determined so as to determine further processing of the slice.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wattles et al. as modified by Fagan as applied to claim 1 above, and further in view of U.S. Patent No. 5,324,228 to Vogeley.

Referring to claim 5, Wattles et al. as modified by Fagan further discloses the camera performs a geometrical determination of the circumference of the fillet slice – see column 4 lines 35-67 and column 5 lines 1-10 of Wattles et al. Wattles et al. as modified by Fagan does not disclose the camera performs a color analysis of the slice. Vogeley does disclose the camera – at 16,18, performs a color analysis – see figures 3-5 and column 3 lines 1-59. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Wattles et al. as modified by Fagan and add the color analysis of Vogeley, so as to accurately determine the size and shape of the product during use.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wattles et al. as modified by Fagan as applied to claim 1 above, and further in view of U.S. Patent No. 5,241,365 to Haagensen.

Referring to claim 8, Wattles et al. as modified by Fagan does not disclose the cutting of the fillet slice in the slicer from the same fillet is controlled on the basis of imaged and calculated characteristic parameters of a preceding fillet slice. Haagensen does disclose the cutting of the fillet slice in the slicer from the same fillet is controlled on the basis of imaged and calculated

characteristic parameters of a preceding fillet slice – see figures 3-4 and column 3 lines 3-42. Therefore it would have been obvious to one of ordinary skill in the art to take the method of Wattles et al. as modified by Fagan and add the imaging controls of Haagensen, so as to allow for the slices to be made into specific sizes and weights.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wattles et al. as modified by Fagan as applied to claim 9 above, and further in view of U.S. Patent No. 5,466,186 to Hjorth.

Referring to claim 11, Wattles et al. as modified by Fagan does not disclose the conveyor belt is provided with spikes and a vertically extending surface. Hjorth does disclose the conveyor belt – at 222 or 230, is provided with spikes – see figure 2 and a vertically extending surface – see at 222 and 230 in figure 2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Wattles et al. as modified by Fagan and add the conveyor belt with spikes of Hjorth, so as to allow for the product to be securely held in place during operation of the device.

Allowable Subject Matter

7. Claim 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to meat cutting devices with cameras and/or weighing devices in general:

U.S. Pat. No. 3,995,517 to Smith – shows slicing device

U.S. Pat. No. 4,136,504 to Wyslotsky – shows slicing device

U.S. Pat. No. 4,875,254 to Rudy et al. – shows slicing device with camera

U.S. Pat. No. 4,868,951 to Akesson et al. – shows slicing device with scale

U.S. Pat. No. 4,962,568 to Rudy et al. – shows slicing device

U.S. Pat. No. 5,226,334 to Pegoraro – shows slicing device with scale

U.S. Pat. No. 5,352,153 to Burch et al. – shows cutting device with camera

U.S. Pat. No. 5,749,777 to Burch et al. – shows slicing device

U.S. Pat. No. 6,843,714 to Jurs et al. – shows cutting device with camera

U.S. Pat. No. 7,044,846 to Eilertsen – shows slicing device with camera and scale

JP Pat. No. 1-132333 – shows slicing device with camera

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

David Parsley
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Art Unit 3643